HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 15845 OF 2006

DATED: 18.8.2006

Between:

D. Lakshmu Naidu and others

… Petitioners

and

The District Collector, Vizianagaram and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.15845 OF 2006

ORAL ORDER:

The petitioners' lands are sought to be acquired by the issuance of a notification dated 22.5.2006 under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act'). Urgency clause has been invoked under Section 17 of the Act and enquiry under Section 5-A of the Act has been dispensed with mechanically without due application of mind, is the complaint. The draft declaration under Section 6 has been issued on 27.5.2006.

The impugned notification states that the acquisition is for the purpose of rehabilitation to the Markondaputti village of Garugubilli Mandal under Relief and Rehabilitation Package of Thotapalli Barrage Project. This requirement is not of such an emergent nature as would

justify invocation of the urgency clause and dispensing with the enquiry under Section 5-A of the Act. The enquiry under Section 5-A of the Act is a salutary statutory provision intended for affording a reasonable opportunity to the owners of lands to object to the acquisition on any relevant grounds as they wish to submit.

In the aforesaid circumstances, the decision in the impugned notification to invoke the urgency clause and dispensing with the enquiry under Section 5-A of the Act is declared irrational and unsustainable. The respondents are directed to issue notice to the petitioners for submission of objections if any to the proposal to acquire the lands. On the petitioners' submitting their objections within the time stipulated in the notice, the same shall be considered and an appropriate decision taken duly communicating the decision to the petitioners simultaneously with the recommendations made after the enquiry under Section 5-A of the Act by the acquiring authority. The petitioners shall not be dispossessed pending communication of the decision to the petitioners consequent on the enquiry under Section 5-A of the Act. The declaration dated 27.5.2006, under Section 6 of the Act, is quashed.

The writ petition is disposed of as above at the stage of admission, after hearing the learned counsel for the petitioners and the

learned Government Pleader for Land Acquisition. There shall however be no order as to costs.

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GODA RAGHURAM, J

Date: 18.8.2006
CVM